

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

HECTOR RINALDO PEREZ,

Plaintiff,

v.

Case No: 6:20-cv-100-Orl-37GJK

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

REPORT AND RECOMMENDATION

Pending before the Court is Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc 2). Upon due consideration I respectfully recommend that the motion be **DENIED**.

Plaintiff Hector Rinaldo Perez appeals to this Court from an adverse administrative ruling by Defendant Commissioner of Social Security (Doc. 1). Plaintiff seeks to proceed *in forma pauperis*. However, his application shows that he receives \$3,100 per month in VA disability payments and that his expenses total \$1,889 per month, which leaves Plaintiff with \$1,211 per month in disposable income to pay the filing fee (Doc. 2 at 1-2). Before filing this Report and Recommendation I gave Plaintiff 14-days to supplement his application to provide evidence that he truly is indigent (Doc. 4). The 14-days has passed, and Plaintiff has not provided any additional information.

Title 28 of the United States Code, Section 1915 which governs *in forma pauperis* motions filed in federal court provides in part that:

[A]ny court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without

prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [person] prisoner possesses that the person is unable to pay such fees or give security therefor.

28 U.S.C. § 1915(a)(1). Plaintiff's application fails to demonstrate that he is unable to pay the filing fee in this Court. Consequently, I respectfully recommend that Plaintiff's application to proceed *in forma pauperis* be **DENIED**, and that Plaintiff be given 14 days to pay the filing fee. If Plaintiff fails to pay the filing fee within 14-days then I recommend that this action be dismissed without prejudice, without further order of the Court.

Notice to Parties

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. See 11th Cir. R. 3-1.

RESPECTFULLY RECOMMENDED at Orlando, Florida on February 10, 2020.


THOMAS B. SMITH
United States Magistrate Judge

Copies furnished to:

Presiding United States District Judge
Counsel of Record
Any Unrepresented Parties